

Notice of Allowability	Application No.	Applicant(s)	
	10/604,214	YEAGER ET AL.	
	Examiner	Art Unit	
	Kallambella Vijayakumar	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/14/2006.
2. ☒ The allowed claim(s) is/are 1-29 and 31-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.


4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |


Mark Kopec
Primary Examiner

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Michael Buchanan on 09/25/2006.

The application has been amended as follows:

Cancel Claim 30.

In Claim 35, **AFTER** 'claims' **DELETE** '30,'

In the **Specification, Page-1, DELETE** the contents in **Paragraph 0001** in entire entity and **REPLACE** with

--This application is a continuation-in-part of U.S. Application Serial No. 09/683,214 filed December 3, 2001, now US Patent 6,905,637 which claims the benefit of U.S. Provisional Application Serial Nos. 60/262,522 filed 18 January 2001 and 60/306,017 filed 17 July 2001. This application is also a continuation-in-part of U.S. Application Serial No. 09/682,057 filed July 16, 2001, now US Patent 6,627,704 which claims the benefit-is itself a continuation-in-part of U.S. Application Serial No. 09/452,733, filed December 1, 1999, now US Patent 6,352,782 and further claims priority to U.S. Provisional Application Serial No 60/262,571, filed January 18, 2001.--

The claims were cancelled without prejudice preserving the rights to file a continuation application.

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Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Claims 1-29 and 31-35 are allowed as amended. Perfecting the domestic priority over the provisional application No. 60/262751 filed 01/18/2001 attributes an effective filing date of 01/18/2001 for the instant application and overcomes the reference of US 2001/0053820 by Yeager et al as a prior art. The instant claims are supported by the disclosure in US 60/262751. The arguments by the applicants and canceling of claim 30 overcomes the prior art by Weber et al. A new search did not result in any other new prior art of record. The prior art of record neither teaches nor fairly suggestive of the applicant's compositions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kallambella Vijayakumar whose telephone number is 571-272-1324. The examiner can normally be reached on 8.30-6.00 Mon-Thu, 8.30-5.00 Alt Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KMV
October 12, 2006.


Mark Kopec
Primary Examiner